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The reply filed 10 December 2008 is not fully responsive to the prior Office action because of the following omission(s) or matter(s) (See 37 CFR 1.111):

Elections/Restrictions

Amendment(s) to claim 1 and newly submitted claims 35-53 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

The related inventions are distinct if (1) the inventions as claimed are either not capable of use together or have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP §806.05(j). In the instant case, the inventions as claimed have materially different designs, modes of operation, functions and effects.

Furthermore, there is nothing of record to show them to be obvious variants.

The originally prosecuted invention is directed to a method of assessing coronary risk based upon coronary calcification and sets forth a CT scan and subsequent processing to determine a density distribution of calcification to diagnose a risk of cardiovascular disease.

Newly presented claims are directed to image analysis methods only and prescribe determining physical characteristics of a calcified spot in a patient's heart and delineate determining parameters referred to as scatterness and pattern of calcified spots within the heart and include assessment of elasticity, heterogeneity, texture, among others. The current image processing method(s) are classified in class 382, subclass 128, 131. The originally prosecuted invention is classified in class 600, subclass 425.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution

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on the merits. Accordingly, claims 1 (as amended) and 35-53 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Conclusion

Since the above-mentioned reply appears to be bona fide, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda L. Lauritzen whose telephone number is (571)272-4303. The examiner can normally be reached on Monday - Friday, 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on (571) 272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Amanda L. Lauritzen/
Examiner, Art Unit 3737

/BRIAN CASLER/
Supervisory Patent Examiner, Art Unit
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